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May 13, 2010

By ECF Filing

Hon. Steven M. Gold, Esq.
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Jozef Kozik et al v. Whitestone Construction Corp. et al
United States District Court, EDNY, Docket No. CV 4095/07

Dear Judge Gold:

This firm represents the defendants in the above-referenced action. This letter is written in response to plaintiffs' letter dated May 12, 2010 in opposition to defendants' request for an adjournment of the deposition of plaintiff's forensic accounting expert, Glenn Pannenberg, CPA ("Pannenberg"), which is currently scheduled for May 24, 2010, for thirty days, pending the full and complete review of the Pannenberg report by defendant Whitestone Construction Corp.'s ("Whitestone") forensic accountants.

The purpose of the settlement conference is for the parties to engage in productive settlement discussions based upon the damage claims presented in the plaintiffs' Pannenberg report and defendants complete review and analysis of the report. As stated in Donald Carbone's May 12th letter to the Court, the additional time requested to depose Mr. Pannenberg would put Whitestone in a better position to fairly and accurately evaluate plaintiffs' damage claims as set forth in the Pannenberg report.

Defendants request for a thirty (30) day adjournment of the Pannenberg deposition is not unreasonable given the numerous adjournments extended to the plaintiffs by the defendants to complete their document inspection and produce the Pannenberg report. Instead, the adjournment application is a practical request to allow Whitestone's forensic accountants a full review of the Pannenberg report. At this point in time, without the adjournment of the Pannenberg deposition to allow for a full review of the Pannenberg report by Whitestone's forensic accountants, Whitestone would not be in the position to engage in meaningful or productive discussions with the plaintiffs regarding the damage claims presented in the Pannenberg report.

There is no prejudice to the plaintiffs for the brief 30 day adjournment request. In fact, if plaintiffs want to have meaningful settlement discussions in this matter, the adjournment of the Pannenberg deposition would serve that purpose.



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Thank you for your consideration of this adjournment application.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read 'Timothy B. Cummiskey', written over a horizontal line.

Timothy B. Cummiskey

cc: Donald J. Carbone, Esq.
Robert Wisniewski, Esq.
Eric M. Pasinkoff, Esq.

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